



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, १६ जनवरी, १९६८/२६ पौष, १९६८

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT NOTIFICATION

Simla-4, the 15th January, 1968

No. 1-2/68-VS.—In pursuance of rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964 the following Bills as introduced in the Legislative Assembly on the 15th January, 1968 are hereby published in the Himachal Pradesh Government Gazette:—

1. The Himachal Pradesh Passengers and Goods Taxation (Amendment and Extension) Bill, 1968 (Bill No. 2 of 1968).
2. The Himachal Pradesh Motor Spirit (Taxation of Sales) Bill, 1968 (Bill No. 3 of 1968).
3. The Himachal Pradesh Entertainment Duty Bill, 1968 (Bill No. 4 of 1968).
4. The Himachal Pradesh Entertainment Tax (Cinematograph Shows) Bill, 1968 (Bill No. 5 of 1968).
5. The Himachal Pradesh Urban Immovable Property Tax Bill, 1968 (Bill No. 6 of 1968).

D. B. LAL,
Secretary.

Bill No. 2 of 1968

**THE HIMACHAL PRADESH PASSENGERS AND GOODS TAXATION
(AMENDMENT AND EXTENSION) BILL, 1968**
(As INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (Himachal Pradesh Act No. 15 of 1955) as in force in the territory comprised in Himachal Pradesh immediately before 1st November, 1966 and to extend the said Act so amended to the territories transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

BE it enacted by the Legislative Assembly of the Union territory of Himachal Pradesh in the Eighteenth Year of the Republic of India as follows:—

**Short title
and com-
mencement.**

1. (1) This Act may be called the Himachal Pradesh Passengers and Goods Taxation (Amendment and Extension) Act, 1968. 5
(2) This shall come into force at once.

**Amend-
ment of
section 3.**

2. In sub-section (1) of section 3, of the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (hereinafter referred to as the principal Act), for the words 'one twelfth', the words 'one tenth' shall be substituted.

**Amend-
ment of
section 6.**

3. Sub-section (2) and (3) of section 6 shall be omitted. 10

**Substitu-
tion of
section
13-A.**

4. For section 13-A of the principal Act, the following section shall be substituted, namely:—

“13-A. Impounding of a licence.—(1) The prescribed authority may, if it has reason to believe that the driver or conductor of a motor vehicle has contravened any provision of this Act, or rules made thereunder or any order or direction made or given thereunder, seize any licence held by such driver or conductor, or any other document relating to the vehicle in his possession, which in the opinion of the prescribed authority will be useful for, or relevant to, any proceeding under section 14-A and forward the same to the Excise and Taxation Officer, concerned. 15

(2) The prescribed authority seizing the licence or other document under sub-section (1) shall give to the person surrendering the same a temporary acknowledgement therefor and such acknowledgement shall have effect, until the licence or other document is returned to the driver or conductor, as the case may be, as if the same had not been seized.” 25

**Insertion
of new sec-
tions 14-A
& 14-B.**

5. After section 14 of the principal Act, the following sections shall be inserted, namely:—

“14-A. Penalty.—(1) Whoever contravenes, or fails to comply with, any of the provisions of this Act or the rules made thereunder or any order or direction made or given thereunder, shall, if no other penalty 30

is provided under this Act for such contravention or failure, be liable to imposition of a penalty not exceeding five hundred rupees.

- 5 (2) An officer of the rank of Excise and Taxation Officer appointed under sub-section (1) of section 7, may, after affording to the person concerned a reasonable opportunity of being heard, impose the penalty specified in sub-section (I).

10 **14-B. Setting up check posts and barriers.**—The State Government may, by notification in the Official Gazette, set up check posts and erect barriers at any place in the State to prevent evasion of the tax due under this Act, in such manner as may be prescribed.”

15 6. For section 15 of the principal Act, the following section shall be substituted, namely:—

15 “15. *Appeals.*—(1) An appeal shall lie to the appellate authority appointed by the State Government in this behalf, against any original order passed under this Act, within sixty days of the passing of such order or within such further period as the appellate authority may, for sufficient cause, allow:

20 Provided that no appeal shall be entertained by such authority unless he is satisfied that the amount of tax assessed and penalty imposed has been paid:

25 Provided further that such authority, if satisfied that an owner is unable to make such payment may, for reasons to be recorded in writing, entertain an appeal without such payment having been made.

25 (2) Save as provided in section 16, an order passed by the appellate authority shall be final.”

30 7. Sections 17 and 18 of the principal Act shall be omitted.

Omission of sections 17 and 18.

8. In sub-section (2) of section 22 of the principal Act—

Amend-
ment of
section 22.

30 (i) for clauses (d) and (f), the following clauses shall be substituted, namely:—

35 “(d) prescribing the manner of granting registration certificate under section 9 and the manner of payment of tax and penalty assessed and imposed under this Act;

(f) prescribing the manner in which appeals under this Act may be preferred;”;

(ii) after clause (h) the following clause shall be inserted, namely:—

“(hh) prescribing the manner in which check posts and barriers to prevent evasion of tax may be set up and erected.”

40 9. The principal Act as amended by this Act and all rules, notifications and orders made, and all directions or instructions issued which are in force immediately before the commencement of this Act in the territory to which the said Act applies are hereby extended to and shall be in force in the territories transferred to Himachal Pradesh under section 5
31 of 1966, of the Punjab Re-organisation Act, 1966.

Extension

Repeal and
Savings.

10. The Punjab Passengers and Goods Taxation Act, 1952 as applicable to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and all rules, notifications, and orders made, directions or instructions issued, thereunder, shall upon the commencement of this Act, save as otherwise expressly provided in this Act, stand repealed:

16 of 1952

31 of 1966

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Provided that such repeal shall not affect—

- (a) the previous operation of the Act so repealed or anything duly done or suffered thereunder, or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed,
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

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and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that anything done or any action taken under the Act so repealed shall be deemed to have been done or taken under the Act extended by section 9 and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the Act so extended.

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Power to
remove
difficulties.

11. If any difficulty arises in giving effect to the provisions of the Act, rules, or orders or instructions or directions now extended to the territory in which they were not in force before the commencement of this Act, the State Government may, by order notified in the Official Gazette, make such provisions or give such directions, as appear to it to be necessary or expedient for the removal of the difficulty.

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STATEMENT OF OBJECTS AND REASONS

At present two different Acts in regard to taxation on the carriage of passengers and goods by road in certain motor vehicles are in force in Himachal Pradesh, viz. the Himachal Pradesh Passengers and Goods Taxation Act, 1955, as in force in the territory comprised in the Himachal Pradesh immediately prior to 1st November, 1966 and the Punjab Passengers and Goods Taxation Act, 1952 as in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. For the sake of bringing about uniformity and rationalising the tax structure throughout Himachal Pradesh, it is considered necessary to extend the Himachal Pradesh Passengers and Goods Taxation Act, 1955 with certain amendments to provide for the composition of offences departmentally and setting up check-posts for the prevention of evasion, to the transferred areas and to repeal the Punjab Act as in force there. This Bill seeks to achieve the aforesaid objects.

SIMLA:
The 15th January, 1968

SUKH RAM,
Development Minister.

FINANCIAL MEMORANDUM

The Bill is not likely to yield any more income to the Government but the same will rather fall in so far as the income in the Excise and Taxation Department under the passengers and goods tax is concerned. This short-fall is likely to be made good by the income accruing to the Transport Department from the proposed enhanced rates of fare and the attachment fee already charged by the Transport Department from private carriers at the rate of Rs. 6000.00 per annum. No additional expenditure will be involved.

MEMORANDUM ON DELEGATED LEGISLATION

Nil

RECOMMENDATIONS OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

(Noting para 72 of the Excise and Taxation Department File No.14-3/66-E&T).

The Administrator having been informed of the subject-matter of the Himachal Pradesh Passengers and Goods Taxation (Amendment and Extension) Bill, 1968, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill.

THE HIMACHAL PRADESH MOTOR SPIRIT (TAXATION OF SALES) BILL, 1968

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the levy of a tax on the retail sale of motor spirit.

BE it enacted by the Legislative Assembly of the Union territory of Himachal Pradesh in the Eighteenth Year of the Republic of India as follows:—

Short title and commencement. 1. (1) This Act may be called the Himaehal Pradesh Motor Spirit (Taxation of Sales) Act, 1968. 5

Definitions. 2. In this Act unless there be anything repugnant in the context,—

- (a) "Government" means the Administrator of the Union territory of Himachal Pradesh;
- (b) "magistrate" means any magistrate exercising powers not less than those of a magistrate of the second class;
- (c) "motor spirit" means any inflammable hydrocarbon (including any mixture of hydrocarbons or any liquid containing hydrocarbon) which is ordinarily used for providing reasonably efficient motive power for any form of motor vehicle;
- (d) "penalty" means a penalty imposed under section 9 of this Act;
- (e) "Petrol Taxation Officer" means such officer not below the rank of an Assistant Excise & Taxation Officer, as may be appointed by the Government to discharge the duties of a Petrol Taxation Officer under this Act with reference to any particular area; 10
- (f) "prescribed" means prescribed by Rules made under this Act;
- (g) "retail dealer" means any person who, on commission or otherwise, sells any motor spirit to a consumer or to any other person for any purpose other than re-sale, or keeps any motor spirit for sale to consumer or to any other person for purposes other than re-sale; 15
- (h) "retail sale" means a sale by a retail dealer of any motor spirit to a consumer or to any other person for any purpose other than re-sale;
- (i) "sale" and "sell" include exchange, barter and also the consumption of motor spirit by the retail dealer himself; 20
- (j) "vehicle" includes any carriage or conveyance used on land or in water or air;
- (k) "Excise & Taxation Commissioner" means the person for the time being appointed by the Government to perform all or any of the functions and exercise all or any of the powers of the Excise and Taxation Commissioner; and 30
- (l) "Deputy Excise and Taxation Commissioner" means the person for the time being appointed by the Government to perfrm all or 35

any of the functions and exercise all or any of the powers of the Deputy Excise and Taxation Commissioner in any specified local area.

CHAPTER II

TAXATION

- 5 3. (1) There shall be levied and paid to the Government on all retail sales of motor spirit a tax at the rate of seven paise for each litre of motor spirit. Imposition of tax.
- 10 (2) The Government may by notification in the Official Gazette, exempt any retail sales of motor spirit from liability to pay tax under the Act, either wholly or partially and on such conditions as it may think fit to impose.
- 15 4. When the payment of any tax or penalty under this Act falls due, the amount may be recovered as if it were an arrear of land revenue. Recovery of taxes as arrears of land revenue.
- 20 5. (1) Any question as to whether a tax or penalty is recoverable under this Act, the person from whom it is due and the amount so recoverable shall be determined by the Petrol Taxation Officer for the area where the sale takes place. Power to determine certain questions.
- 25 (2) No such order shall be made final until an opportunity has been given to any person concerned to appear in person or by duly authorised agent before the Petrol Taxation Officer, but once the order has been made final a certificate given under the hand of the Petrol Taxation Officer shall, subject to the provisions of this Act with regard to appeal, review and revision be final and conclusive proof both as to the amount of the tax or penalty which is due and as to the person from whom it is due.

CHAPTER III

LICENSING OF RETAIL DEALERS

- 30 6. After the expiry of a period of two months from the commencement of this Act no person shall carry on business as a retail dealer unless he is in possession of a valid licence. No person to trade without a licence.
- 35 7. (1) Except as provided hereunder, a licence shall be granted to any person applying therefor in the prescribed form to the Petrol Taxation Officer on payment of a fee of not more than twenty-five rupees, if any, as may be prescribed. Grant of licence.
- 40 (2) Every such licence shall be valid without renewal only up to the thirty-first day of March following the date on which it is granted, but may be renewed annually on payment of a fee not more than ten rupees.
- 45 (3) The grant or renewal of a licence may be refused if any previous licence of the applicant or of any person with whom the applicant has been working as a partner has been cancelled or if the applicant or any person with whom he has been working as a partner has been convicted of any offence relating to the motor spirit or if the Petrol Taxation Officer is satisfied that the application has been made only for the purpose of enabling any person to carry on business as a retail dealer without a licence.
- 50 (4) No licence under this Act except in the case of a licence for the retail sale or powerine or diesel oil, shall be granted to any person who does not hold a licence for the storage of dangerous petroleum under the

Petroleum Act, 1934, and if any such licence granted under that Act is cancelled, suspended or is not renewed, any licence granted under this Act to the holder thereof shall be deemed to be cancelled, suspended or not renewed as the case may be.

(5) If an application for the renewal of a licence under this Act is made within such time before its expiry as may be prescribed by the Government, the holder of the licence shall be deemed to be in possession of a valid licence until the licence is renewed or until he is informed that the renewal of the licence has been refused.

Suspension
or cancella-
tion and
restoration
of a licence.

8. (1) The Petrol Taxation Officer may after giving the licensee an opportunity to be heard, suspend or cancel a licence for a breach of any of the conditions which may be prescribed as the conditions subject to which a licence is granted.

(2) A licensee shall not be entitled to any compensation for the suspension or cancellation of his licence under the foregoing sub-section.

(3) A licence cancelled or suspended under this section may be restored by the Petrol Taxation Officer on payment of such fee as may be prescribed.

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V of 1898.

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Imposition
of penalty.

9. If any tax due under this Act is not paid within the time fixed by notice issued in the prescribed manner, the Petrol Taxation Officer may impose a penalty not exceeding the amount of the tax due, in addition to the payment of the tax. Provided that no such penalty shall be imposed unless the person on whom it is to be imposed or his duly authorised agent is given an opportunity of being heard by the Petrol Taxation Officer.

Punish-
ment for
unautho-
rised sale.

10. Whoever contravenes the provisions of section 6 shall be punishable with fine which may extend to one thousand rupees or to a sum double the amount of the tax due in respect of the sale of any motor spirit conducted by or on behalf of such person, whichever is greater.

Issue of
warrants.

11. (1) A Magistrate may issue a warrant—

- (a) for the arrest of any person whom he has reason to believe to have committed an offence punishable under this Act; or
- (b) for the search, whether by day or by night, of any building, vessel, vehicle or place in which he has reason to believe that any motor spirit is sold or is kept for sale.

(2) All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898 by a Police Officer or if the officer issuing the warrant deems fit, by any other person.

Searches
how made.

12. All searches made under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

Procedure
for arrest
without
warrant.

13. The provisions of section 61 of the Code of Criminal Procedure, 1898, shall apply to all arrests without warrant made under the provisions of this Act.

- 14.** Every person employed by the Government, by any local body or by the Court of Wards, every village headman, village accountant and village watchman shall give immediate information to the Deputy Excise & Taxation Commissioner of the commission of any offence or of the intention or preparation to commit any offence punishable under this Act which may come to his knowledge.

15. (1) Every officer of the Excise & Taxation Department not below such rank as may be prescribed shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(2) Every such officer shall, in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

(3) Every such officer may enter at any reasonable time the premises of any retail dealer and with or without notice examine and take copies or extracts from any account books or registers for the purpose of testing the accuracy of any prescribed returns or of informing himself as to any particulars regarding which information is required for the purposes of this Act or of any rules thereunder.

(4) Every such officer may detain and arrest any person whom he has reason to believe to be guilty of any offence punishable under this Act.

16. All offences punishable under this Act shall be bailable.

17. Any officer or person exercising powers under this Act who—
(a) without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel, vehicle or place; or
(b) vexatiously and unnecessarily detains, searches or arrests any person, shall on conviction be punishable with fine which may extend to five hundred rupees.

18. Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to a Magistrate any person arrested under this Act and not released by him on bail shall on conviction be punishable with fine which may extend to two hundred rupees.

19. (1) The Deputy Excise & Taxation Commissioner concerned may accept from any person who has committed an offence punishable under this Act, by way of composition of such offence, a sum of money not exceeding one thousand rupees or a sum double the amount of the tax payable under section 3 in respect of any sale conducted by such person, whichever is greater.

(2) On the payment of such sum of money to the Deputy Excise & Taxation Commissioner concerned, the accused person, if in custody, shall be discharged, and no further proceedings shall be taken against such person in respect of such offence.

CHAPTER V

MISCELLANEOUS

- 20.** The powers of the Government to appoint any person or to invest any person with any authority prescribed by this Act may be exercised

Powers.

by the Excise & Taxation Commissioner, subject to the orders of the Government.

Protection of persons acting in good faith and limitation of suits and prosecution.

Appeal and revision.

Review.

Power to make rules.

21. (1) Any civil or criminal proceedings instituted against any person in respect of any act done or purporting to be done in the exercise of any powers or the execution of any duty under this Act shall be dismissed unless the court is satisfied that the act complained of was not done in good faith.

(2) No suit shall be instituted against the Government and no prosecution or suit shall be instituted against any person in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

22. (1) Any person aggrieved by any order under this Act or rules made thereunder other than an order made by a criminal court may appeal to the Deputy Excise and Taxation Commissioner, concerned if such order is passed by any other officer or person exercising powers under this Act.

(2) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (3) be final.

(3) The Excise and Taxation Commissioner may at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying himself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of such officer or person and may pass such order in reference thereto as he thinks fit.

23. Any order made under this Act, other than an order made by a criminal court, may be reviewed by the officer making it or his successor, but not to the disadvantage of the person against whom it is made, unless he has done anything to mislead the officer passing the order.

24. (1) The Government may make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules for the purpose of—

(a) the recovery of the tax leviable under section 3 including the fixing of the time when the tax is to be paid;

(b) the fixing of licence fees;

(c) imposing on retail dealers the duty of furnishing returns and of keeping records and registers of stocks and daily sales prescribing forms for such returns, and register of stocks and daily sale and the particulars to be contained therein respectively and the manner in which the same are to be verified and all such other conditions thereof as may be necessary and prescribing a period within which such returns must be submitted;

(d) prescribing the localities in which motor spirit may be sold, the assessment of tax and the issue of notices requiring payment and for the recovery of unpaid tax;

(e) providing for or restricting the assignment or transfer of licences and the manner in which licences granted to firms are to operate during the period of or on the dissolution of a partnership;

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- (f) prescribing the arrangements to be made when a licensee dies or becomes subject to a legal disability the period during which, and the persons by whom, the business of such a licensee may be carried on without a licence;
- (g) requiring the production of licences on demand; and
- (h) prescribing the period which shall not be less than one month from the date of the order appealed against within which an appeal under section 22 of the Act may be presented; and prescribing the manner in which such appeal shall be presented.

10 (3) In making any rule the Government may provide that a breach thereof shall be punishable with fine which may extend to 100 rupees, and, where the breach is continuing one, with further fine which may extend to 20 rupees for every day after the first day during which the breach has continued.

15 (4) All rules made under this Act, shall be subject to the condition of previous publication.

1 of 1939

20 25. The Punjab Motor Spirit (Taxation of Sales) Act, 1939 as applied to Himachal Pradesh by the Himachal Pradesh (Application of Laws) Order, 1948 and the Punjab Motor Spirit (Taxation of Sales) Act, 1939 as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 are hereby repealed.

Repeal and Saving.

31 of 1966

Notwithstanding such repeal, anything done or any action taken including any orders, notifications issued or rules made in exercise of the powers conferred by or under any of the repealed Act, shall, to the extent of being consistent with the provisions of this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act.

STATEMENT OF OBJECTS AND REASONS

At present the Punjab Motor Spirit (Taxation of Sales) Act, 1939, which provides for the levy of tax on the sale of motor spirit is in force, with different modifications and provisions of law, in the two different areas of Himachal Pradesh viz. the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the areas comprised in Himachal Pradesh immediately before 1st November, 1966. With a view to bringing about uniformity and rationalising the tax structure throughout Himachal Pradesh it is necessary to have a unified law for the whole of Himachal Pradesh, repealing the Punjab Act. This Bill seeks to achieve the objects.

SIMLA:
The 15th January, 1968

SUKH RAM,
Development Minister.

FINANCIAL MEMORANDUM

By reducing the rate of tax only on petrol from 9 paise levied in the merged areas to 7 paise per litre levied in the old areas there is likelihood of some trade being diverted particularly to Kangra (adjoining Punjab) resulting in increased sales and thereby more revenues to the State. No additional expenditure will be involved.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 24 of the Bill empowers the Administrator (Lieutenant Governor) of the Union territory of Himachal Pradesh to make rules for carrying out the purposes of the Act.

RECOMMENDATIONS OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

(Noting para 18 of the Excise and Taxation Department File No. 14-30/67-E&T).

The Administrator having been informed of the subject of the Himachal Pradesh Motor Spirit (Taxation of Sales) Bill, 1968, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill.

Bill No. 4 of 1968

**THE HIMACHAL PRADESH ENTERTAINMENTS DUTY
BILL, 1968**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the levy of an entertainments duty in respect of admission to public entertainments.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Eighteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Entertainments Duty Act, 1968. Short title,
extent and
commencement.
- (2) It extends to the whole of Himachal Pradesh.
- (3) It shall come into force at once.
2. In this Act unless the context otherwise requires:— Definitions.
- (a) 'admission to an entertainment' includes admission to any place in which the entertainment is being held or is to be held;
- 10 (b) 'Commissioner' means the Excise and Taxation Commissioner, Himachal Pradesh, for the time being;
- (c) 'Entertainment Tax Officer' means the officer appointed as such under this Act;
- (d) 'entertainment' includes any exhibition, performance, amusement, game, sport or race to which persons are ordinarily admitted on payment;
- 15 (e) 'Notification' means a notification published under proper authority in the Himachal Pradesh Government Gazette;
- (f) 'payment for admission' includes—
- 20 (i) any payment made by a person admitted to any part of a place of entertainment and in a case where such person is subsequently admitted to another part thereof for admission to which an additional payment is required, such additional payment, whether actually made or not;
- 25 (ii) in cases of free, surreptitious, unauthorised or concessional entry, whether with or without the knowledge of the proprietor, the payment which would have been made if the person concerned had been admitted on payment of the full charges ordinarily chargeable for such admission;
- 30 (iii) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment if any, for admission to the entertainment;
- 35 (g) 'prescribed' means prescribed by rules made under this Act;
- (h) 'proprietor' in relation to any entertainment includes the owner, partner or a person responsible for the management thereof;

(i) 'Government' means the Administrator of the Union territory of Himachal Pradesh;

(j) 'ticket' means the pass or token for the purpose of securing admission to an entertainment.

Duty on payments for admission to entertainments.

3. (1) A person admitted to an entertainment shall be liable to pay an entertainment duty at a rate not exceeding half of the payment for admission which the Government may specify, by a notification in this behalf, and the said duty shall be collected by the proprietor and rendered to the Government in the manner prescribed. 5

(2) A draft of the proposed order specifying the rate of entertainments duty referred to in sub-section (1) shall be notified for the information of all persons likely to be affected thereby and it shall take effect only after the Government has considered all objections received within a period of thirty days from the date of such publications, and has notified the same again, with or without modification. 10 15

Provided that if the Government consider that such an order should be brought into force at once, the final notification may issue without previous publication:

Provided further that Government may impose an entertainments duty on complimentary tickets at a rate different from that imposed on other kinds of payment for admission subject to the maximum specified in sub-section (1). 20

(3) Until such time as the duty referred to in sub-sections (1) and (2) has been finally notified, the entertainments duty shall be levied at the rates in force in this behalf immediately before the commencement of this Act. 25

(4) The final notification specifying the rates of entertainments duty shall be laid before the Legislative Assembly at the session immediately following its publication.

Calculation of duty.

4. Notwithstanding anything in this section the amount of duty shall be calculated to the nearest multiple of five paise by ignoring two paise or less and counting more than two paise as five paise. 30

Payment made in a consolidated sum.

5. Where the payment for admission to an entertainment is made in a consolidated sum in the form of a subscription or contribution to any society or a season ticket, or a right of admission to an entertainment or series of entertainments during a specified period, or a privilege, right, or facility combined with the right of admission without further payment, or a reduced charge, the entertainments duty shall be laid on the amount of the consolidated sum, but where the Entertainment Tax Officer is of the opinion that the payment of a consolidated sum or any payment for a ticket includes payment for other privileges, rights or facilities besides the admission to an entertainment, or is intended to secure admission to an entertainment, during a period when the duty has not been in operation, the duty shall be charged on such amount as appears to the Entertainment Tax Officer to represent the right of admission to entertainment for which a duty is payable. 35 40 45

Deposit of security by the proprietor.

6. The prescribed authority may, in the manner prescribed, require the proprietor of an entertainment to deposit as security for payment of entertainments duty under this Act, an amount not exceeding one thousand rupees in a Government treasury, and the same shall be so deposited.

7. For carrying out the purposes of this Act, the Government may appoint a person as Entertainment Tax Officer and such other persons as it thinks fit to assist the Commissioner.
8. The proprietor of an entertainment shall, in the manner prescribed, exhibit at the place of entertainment, the rates of payments for admission and the amount of entertainments duty payable on such rates.
9. (1) Except as otherwise provided in this Act, no person shall enter an entertainment unless he is in possession of a ticket or a complimentary ticket or a pass or a badge supplied by the employer under this Act and no person liable to pay entertainments duty shall so enter without having paid, in the manner prescribed, the duty payable under this Act.
- (2) A person who enters an entertainment without permission or surreptitiously, with intent to evade the duty payable under this Act shall, on conviction by a Magistrate, be punishable with fine which may extend to Rs. 200 (Rupees two hundred) and, in addition, be liable to pay such duty.
10. Nothing in this Act shall apply to bona fide employees of the proprietor, who are on duty in connection with the entertainment, or to the proprietor when on such duty.
11. (1) Save as otherwise provided by this Act no person shall be admitted on payment to any entertainment where the payment for admission is subject to entertainments duty except with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not used before) issued by the Government for the purposes of revenue and denoting that the proper entertainments duty has been paid.
- (2) The Government may, on the application of the proprietor of any entertainment, in respect of which the entertainments duty is payable, permit the proprietor, on such conditions as the Government may prescribe, to pay the entertainments duty—
- (a) by a consolidated payment of a percentage not exceeding 50 per centum of the gross payment for admission to the entertainment at the rate in force during the period concerned; or
- (b) in accordance with the returns of the payments for admission to the entertainment; or
- (c) in accordance with the results recorded by any mechanical contrivance that automatically registers the number of persons admitted.
12. (1) No entertainments duty shall be levied on payment for admission to any entertainment where the Commissioner is satisfied on application made in this behalf in the prescribed manner that the whole of the net proceeds of the entertainment will be devoted to philanthropic, charitable, educational or scientific purposes which have been approved as such by the Government.
- (2) Nothing in this Act shall apply to any entertainment provided by the staff or students, or both of an academic institution when the proceeds are intended for academic or charitable purposes.

Entertainment Tax Officer and other taxing authorities.

Posting of tables of rates of payments for admission at conspicuous places.

Penalty for non-payment of duty.

Admission of persons without payment.

Method of levy.

Entertainments exempted from payment of duty.

(3) The Government may, for promotion of peace and international goodwill or encouragement of arts and crafts, sports or other public interest, by general or special order, exempt any entertainment or class of entertainments from liability to pay duty under this Act.

Appeal.

13. (1) Any person aggrieved by an order made by the prescribed authority under sub-section (1) of section 17 may, in the prescribed manner, appeal to such higher authority as may be prescribed within thirty days of such order: 5

Provided that no appeal shall be entertained by such higher authority unless it is satisfied that the amount of duty due and the penalty, if any, imposed on the person has been paid: 10

Provided further, that if such higher authority is satisfied that the person is unable to pay the duty due or the penalty, if any, imposed or both, it may, for reasons to be recorded in writing, entertain the appeal without the duty or penalty or both having been paid. 15

(2) Subject to such rules of procedure as may be prescribed, the higher authority may pass on such appeal such order as it may think fit.

Powers of revision.

14. The Commissioner or such other officer, as the Government may, by notification, appoint in this behalf may of his own motion or on application made, call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order, and may pass such order in reference thereto as he may deem fit: 20

Provided that the Commissioner or the other officer may, before deciding such application, direct the applicant to deposit, in whole or in part, the amount of duty due, and the penalty, if any, imposed on him under this Act. 25

Production and inspection of accounts and documents.

15. (1) The proprietor of an entertainment shall on being required to do so by an officer authorised by the Government in this behalf, produce before any officer of the Excise and Taxation Department, not below the rank of a Sub-Inspector as may be prescribed, any accounts or documents, relevant to the sales of tickets including complimentary tickets and realisation of the entertainments duty due as may be necessary for the purposes of this Act. 30

(2) If any officer of Government mentioned in sub-section (1) has reason to suspect that the proprietor of any entertainment is attempting to evade the payment of any entertainments duty due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the proprietor, as may be necessary and shall grant a receipt for the same and shall retain the same only for so long as may be necessary for examination thereof. 35

Entry into and inspection of places of entertainments.

16. (1) Any officer not below such rank as may be prescribed, may enter into, inspect and search any place of entertainment while the entertainment is proceeding at any reasonable time, for the purpose of ensuring that the provisions of this Act or any rules made thereunder are being complied with, and while doing so, such officer shall not be deemed to be a person, admitted to the entertainment. 40

(2) The proprietor of every entertainment shall give every 45

reasonable assistance to the aforesaid officer in the performance of his duties under sub-section (1).

17. (1) Where a proprietor of an entertainment commits any of the acts specified in sub-section (1) of section 18, the prescribed authority may, after affording such proprietor a reasonable opportunity of being heard, direct him to pay by way of penalty in addition to the duty due, if any, a sum not exceeding two thousand rupees:

Provided that in cases of free, surreptitious, unauthorised or concessional entry, whether with or without the knowledge of the proprietor, the prescribed authority shall direct the proprietor to pay, by way of penalty, a sum equal to twenty-five times the amount of duty found to be due as a result of such entry.

(2) No prosecution for an offence under this Act shall be instituted against a proprietor of an entertainment in respect of the same facts on which a penalty has been imposed on him under sub-section (1).

18. (1) If the proprietor of an entertainment—

Offences
and pen-
alties.

(a) fraudulently evades the payment of any duty due under this

Act, or

(b) obstructs any officer making an inspection, a search or seizure under this Act, or

(c) acts in contravention of, or fails to comply with any of the provisions of this Act or the rules thereunder, he shall, on conviction, be liable in respect of each such offence to a fine which may extend to two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

(2) No court shall take cognizance of an offence under this Act or under the rules made thereunder except on a complaint made by a person authorised in this behalf by the Government and no court inferior to that of a Magistrate of the first class shall be competent to try any of the offences under this Act.

Power to
compound
offences.

19. (1) The prescribed authority may, at any time, accept from a person, who has committed an offence under this Act, by way of composition of such offence, a sum of money not exceeding two hundred and fifty rupees or double the amount of duty payable under this Act, whichever is greater.

(2) On payment of such sum of money as may be determined under sub-section (1), the prescribed authority shall where necessary, report to the court that the offence has been compounded and thereafter no further proceedings shall be taken against the offender in respect of the same offence and the said court shall discharge or acquit the accused, as the case may be.

20. Any sum due under this Act shall be recoverable as arrears of land revenue.

Recoveries

21. (1) Government may delegate all or any of its powers under this Act except those conferred upon it by section 23 and this section, to any person or authority subordinate to it.

Delegation
of powers
by the
Govern-
ment.

(2) The exercise of any power delegated under sub-section (1) shall be subject to such restrictions, limitations or conditions, if any as may be laid

down by the Government and shall also be subject to control and revision by it.

Bar of certain proceedings.

22. No action shall lie against Government or any of its officer or servant for any act done or purporting to be done in good faith under this Act.

Power to make rules.

23. (1) The State Government may make rules generally for carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power it may make rules—

- (a) for the supply and use of stamps or stamped tickets if required in connection with the levy of entertainments duty or for the stamping of tickets sent to be stamped, and for securing the defacement of stamps when used; 10
 - (b) for the use of tickets covering the admission of more than one person and the calculation of the duty thereon for the payment of the duty on the transfer from one part of a place of entertainment to another; 15
 - (c) for controlling the use of mechanical contrivances (including the prevention of the use of the same mechanical contrivances for payments of a different amount) and for securing proper records of admission by means of mechanical contrivances; 20
 - (d) for checking of the admission, keeping of accounts and furnishing of returns by the proprietors of entertainments in respect of which entertainments duty is payable in accordance with the provisions of this Act; 25
 - (e) for renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund;
 - (f) for keeping of accounts of all stamps used under this Act;
 - (g) for prescribing the form of a ticket, pass or token authorising admission to an entertainment; 30
 - (h) for the presentation and disposal of applications for exemption from payment of the entertainments duty or for the refund thereof;
 - (i) for the exemption from the entertainments duty on military personnel in uniform;
 - (j) for the collection of entertainments duty under this Act and the powers to be exercised by the officers of Government in that behalf; 35
 - (k) for specifying the authorities who would be competent to compound offences under section 19; 40
 - (l) for laying down procedure for the hearing and disposal of appeals under section 13 and applications under section 14 and all other matters incidental thereto.
- (3) All rules made under this Act shall be laid before the Legislative Assembly during its session next ensuing after the publication thereof and may be confirmed, amended or revoked by it. 45

3 of 1936

16 of 1955

31 of 1966
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24. The Punjab Entertainments Duty Act, 1936 as applied to Himachal Pradesh by the Himachal Pradesh (Application of Laws) Order, 1948 and the Punjab Entertainments Duty Act, 1955 as in force in the territories transferred to Himachal Pradesh under section 5 of Punjab Re-organisation Act, 1966, are hereby repealed.

Repeal and
savings.

Notwithstanding such repeal, anything done or any action taken including any orders, notifications or rules made or issued in exercise of the powers conferred by or under any of the repealed Acts shall, to the extent of being consistent with the provisions of this Act be deemed to have been done or taken in exercise of the powers conferred by or under this Act.

STATEMENT OF OBJECTS AND REASONS

The Punjab Entertainments Duty Act, 1955 which provides for the levy of Entertainment Duty, is in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the Punjab Entertainments Duty Act, 1936 is in force in the territory comprised in Himachal Pradesh immediately prior to 1st November, 1966. With a view to bringing about uniformity and rationalising the tax structure throughout Himachal Pradesh, it is necessary to enact the aforesaid law afresh for the whole of Himachal Pradesh, repealing the Punjab Acts. The Bill seeks to achieve the object.

SIMLA:
The 15th January, 1968.

SUKH RAM,
Development Minister.

FINANCIAL MEMORANDUM

This Bill is not likely to yield additional income as the provision for the rate of Duty made therein is about the same as in the Acts to be repealed. No additional expenditure will be involved.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 23 of the Bill empowers the Administrator (Lieutenant Governor) of the Union territory of Himachal Pradesh to make rules for carrying out the purposes of the Act.

RECOMMENDATION OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

(Noting para 23 of Excise and Taxation Department file No. 14-35/67-E&T).

The Administrator having been informed of the subject-matter of the Himachal Pradesh Entertainment Duty Bill, 1968, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill.

Bill No. 5 of 1968.

**THE HIMACHAL PRADESH ENTERTAINMENTS TAX
(CINEMATOGRAPH SHOWS) BILL, 1968**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for levying entertainment tax on cinematograph shows exhibited in public in Himachal Pradesh.

BE it enacted by the Legislative Assembly of the Union territory of Himachal Pradesh in the Eighteenth Year of the Republic of India as follows:—

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|---|---|
| <p>5 1. (1) This Act may be called the Himachal Pradesh Entertainments Tax (Cinematograph Shows) Act, 1968.</p> <p>(2) It extends to the whole of Himachal Pradesh.</p> <p>(3) It shall come into force at once.</p> <p>10 2. In this Act, unless there is anything repugnant in the subject or the context:—</p> <p>(a) 'Commissioner' means the Excise and Taxation Commissioner, Himachal Pradesh, or any other officer empowered by the State Government, by notification, to exercise the powers of the Commissioner under this Act;</p> <p>(b) 'Cinematograph' includes any apparatus for the representation of moving pictures or series of pictures;</p> <p>(c) 'Show' means a cinematograph exhibition;</p> <p>(d) 'Permanent Cinema Premises' includes a building or any other place permanently equipped for exhibition of cinematograph films;</p> <p>(e) 'Prescribed' means prescribed by rules made under this Act;</p> <p>15 (f) 'Proprietor' in relation to this Act includes any person responsible for the management of the premises where the show is held;</p> <p>(g) 'State Government' means the Administrator of the Union territory of Himachal Pradesh;</p> <p>(h) 'Touring Cinema' includes a cinema, which can be taken from place to place for the purpose of displaying cinematograph shows;</p> <p>20 (i) 'Notification' means a notification published under proper authority in the Official Gazette.</p> <p>25 3. (1) Except as otherwise expressly provided in this Act, there shall be levied, charged and paid to the State Government, on all public cinematograph exhibitions to which persons are admitted on payment, an entertainment tax not exceeding Rs. 10.00 per show at such rate or rates as may from time to time be prescribed by notification in the Official Gazette.</p> <p>(2) The powers conferred by sub-section (1) are subject to the condition that a draft of the proposed order fixing or varying the rates of cinematograph shows entertainment tax shall be published by notification for the information of all persons likely to be affected thereby; and it shall</p> | <p>Short title,
extent and
commencement.</p> <p>Definitions.</p> <p>Levy of tax
on public
cinema
shows.</p> |
|---|---|

only take effect after the State Government have considered all objections received within a period of thirty days from the date of its publication.

(3) Tax levied under sub-section (1) above shall be recoverable from the proprietor.

Taxing authorities.

4. (1) For carrying out the purposes of this Act, the Commissioner may be assisted by such other person or persons as the State Government may appoint in this behalf. 5

(2) The Commissioner or the persons appointed under sub-section (1) shall exercise such powers and perform such duties as may be assigned to them under the Act or the rules thereunder. 10

Deposit of security by the proprietor.

5. (1) The Commissioner may require the proprietor of any permanent cinema premises liable to tax under sub-section (1) of section 3 of the Act to deposit in a Government treasury an amount not exceeding five hundred rupees as security pledged with him.

(2) The Commissioner may forfeit the whole or part of this security if he is satisfied that sums payable under this Act due from the proprietor cannot be recovered otherwise. 15

(3) The Commissioner shall, if he is satisfied that the proprietor of any cinema premises who has furnished any security under sub-section (1) has ceased the business of exhibiting cinematograph films and that nothing is due from him under this Act or the rules thereunder, refund the security to the proprietor or his legal heirs. 20

Exemptions.

6. (1) No tax shall be levied on a public cinematograph exhibition under this Act where the Commissioner is satisfied that the whole of the net proceeds of the show will be devoted to philanthropic, charitable, educational or scientific purposes. 25

(2) The State Government may, by general or specific order, exempt any show or class of shows or any proprietor or class of proprietors from the operation of any or of all the provisions of this Act.

Payment of tax and returns.

7. (1) Tax payable under this Act shall be paid in the manner hereinafter provided. 30

(2) Every person liable to pay tax under this Act shall furnish to the prescribed authority such returns as may be prescribed.

(3) A separate return shall be furnished every fortnight, one pertaining to the period from the first to the fourteenth of the month and the other for the period from the fifteenth day of the month to the end of the month. 35

(4) The return for each period shall be submitted within seven days of the close of the period to which it pertains:

Provided that the prescribed authority, for reasons to be recorded in writing, extend the time for furnishing of the returns by a period not exceeding thirty days. 40

(5) Tax payable under this Act for fourteen days shall be paid in advance by the proprietor of a touring cinema into a Government treasury or the Reserve Bank of India at least forty-eight hours before the commencement of the first show on the first of the fourteen days for which the tax is due. The Treasury or Bank receipt showing the payment of tax shall be sent to the prescribed authority or such other officer as the prescribed authority may direct, so as to reach him before the commencement of the 45

first show on the first of the fourteen days for which tax has been paid.

(6) Before the proprietor of any permanent cinema premises furnishes the returns required by sub-section (3) he shall, in the prescribed manner, pay into a Government treasury or the Reserve Bank of India the full amount of tax due from him under this Act according to such returns, and shall furnish along with the returns a receipt from such treasury or Bank showing the payment of such amount.

(7) If the person liable to pay the tax discovers any omission or other error in any return furnished by him, he may at any time before the date prescribed for the furnishing of the next return by him submit a revised return and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment of the extra amount in the manner hereinfore provided.

(8) Every proprietor of cinema premises shall maintain such account of shows held as may be prescribed.

8. If no returns are furnished by the proprietor of a Cinema premises in respect of any period within the time allowed by sub-section (4) of section 7 or if the prescribed authority is not satisfied that the returns furnished are correct and complete, it shall, within twelve months after the expiry of such period, after giving the proprietor a reasonable opportunity of being heard, proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from any particular proprietor.

Assessment of Tax.

9. (1) The prescribed authority shall, in the prescribed manner, refund to a proprietor applying in this behalf, any amount of tax paid by such proprietor in excess of the amount due from him under this Act, either by a refund voucher, or at the option of the proprietor, by deduction of such excess from the amount of tax due in respect of any other period.

(2) The prescribed authority may remit the tax for any show which could not be completed for any reason provided he is satisfied that the ticket-holders have been refunded the price of their tickets in full.

Refunds and remissions.

10. The proprietor of a touring cinema intending to exhibit cinematograph films to which the public is to be admitted on payment shall deliver to the prescribed authority at least three days' clear notice in writing of such intention.

Notice of holding of cinematograph shows.

11. (1) The State Government may, subject to such conditions as may be prescribed, require the proprietor of any cinema premises to produce before any officer of the Excise and Taxation Department, not below the rank of Sub-Inspector as may be prescribed, any accounts or documents, relevant to the shows as may be necessary for the purposes of this Act.

Production and inspection of documents.

(2) If any officer of the State Government mentioned in sub-section (1) has reason to suspect that the proprietor of any cinema premises is attempting to evade the payment of any tax due from him under this Act, he may for reasons to be recorded in writing, seize such accounts, registers or documents of the proprietor, as may be necessary, and shall grant a receipt for the same, and shall retain the same for such period as may be found necessary, for examination thereof or for a prosecution.

Entry into
and inspec-
tion of
places
where
cinemato-
graph
shows are
being held.

12. (1) (a) Any officer, as prescribed, may enter into and inspect any cinema premises while the show is proceeding or any place ordinarily used as a place for exhibiting cinematograph films at any reasonable time for the purpose of examining whether the provisions of this Act or any rule made thereunder are being complied with.

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(b) Every officer so authorised shall be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860

(2) The proprietor of cinema premises or the owner or person in charge of any place ordinarily used for exhibition of cinematograph films shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (1).

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(3) If any person prevents or obstructs the entry of the inspecting officer, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be punished with fine, which may extend to five hundred rupees.

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Power to
impose
pecuniary
penalties.

13. (1) Where a proprietor commits any omission or act specified in clause (a), or clause (b), of sub-section (1) of section 15, the Commissioner or any person appointed under sub-section (1) of section 4 may, after affording the proprietor a reasonable opportunity of being heard, direct him to pay, by way of penalty in addition to the tax to which he is assessed or is liable to be assessed, an amount not exceeding two thousand rupees.

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(2) No prosecution for an offence under this Act shall be instituted against a proprietor in respect of the same facts on which a penalty has been imposed upon him under sub-section (1).

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Bar of cer-
tain pro-
ceedings.

14. (1) No prosecution shall lie against any officer or servant of the State Government, for any act done or purporting to be done under this Act without the previous sanction of the State Government.

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(2) No officer or servant of the State Government shall be liable in respect of any such act in any civil or criminal proceedings if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

35

(3) No suit shall be instituted against the State Government and no suit, prosecution, or other proceedings shall be instituted against any officer or servant of the State Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceedings is instituted within six months from the date of the act complained of.

Offences
and pen-
alties.

15. (1) If the proprietor of cinema premises—

(a) fails to pay the tax due from him within the time allowed under this Act, or

40

(b) fraudulently evades the payment of any tax due under this Act,
or

(c) fails to furnish the returns provided in section 7, or

- (d) fails to give notice as provided in section 10, or
- (e) contravenes any other provisions of this Act or the rules made thereunder,

he shall be liable in respect of each separate offence to a fine which may extend to one thousand rupees and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

5 10 (2) No court shall take cognisance of an offence under this Act or the rules except with the previous sanction of the Commissioner and no court inferior to that of a Magistrate of the 1st Class shall try such an offence.

15 16. (1) The Commissioner may at any time, accept from any person who has committed an offence punishable under this Act, or the rules made thereunder by way of composition of such offence, a sum of money not exceeding two hundred and fifty rupees or double the amount of tax involved whichever is greater.

Power to compound offences.

20 20 (2) On payment of such sum of money as may be determined by the Commissioner under sub-section (1), he shall, where necessary, report to the court that the offence has been compounded and thereafter no further proceedings under this Act, shall be taken against the offender in respect of the same offence and the said court shall discharge or acquit the accused, as the case may be.

25 17. The Commissioner, may, of his own motion or on application made, call for the record of any proceedings or order of any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order and may pass such order in reference thereto as he may deem fit.

Revisions.

30 18. Any sum due under this Act or the rules framed thereunder shall be recoverable as arrears of land revenue.

Recoveries.

35 19. Subject to such restrictions and conditions as may be prescribed, the Commissioner may by an order in writing delegate all or any of his powers under this Act to any person appointed under section 4 to assist him.

Delegation of powers.

35 20. (1)—The State Government may make rules for securing the payment of the tax and generally for carrying into effect the purposes of this Act.

Powers to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules for any or all of the following matters, namely:—

- 40 (a) form of any notice, return, accounts or other document which are required to be used or kept under or for the purposes of this Act;
- (b) the mode of service of any notice or order required or authorised to be served;
- (c) the procedure to be followed on and in connection with revision applications;
- 45 (d) the presentation and disposal of applications for exemption from payment of tax or for refunds of the tax or security;
- (e) any matter which is required by this Act to be prescribed.

(3) All rules made under this section shall be laid before the Legislative Assembly as soon as may be after they are made.

Repeal and savings.

21. The Punjab Entertainments Tax (Cinematograph Shows) Act, 1954, as in force in the territories transferred to Himachal Pradesh under section 5 of the Punjab Re-organization Act, 1966 is hereby repealed.

Notwithstanding such repeal, anything done or any action taken including any orders, notifications or rules made or issued in exercise of the powers conferred by or under the repealed Act shall, to the extent of being consistent with the provisions of this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act.

8 of 1954

5 31 of
1966.

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STATEMENT OF OBJECTS AND REASONS

The Punjab Entertainments Tax (Cinematograph Shows) Act, 1954, which provides for the levy of tax on cinematograph shows, is in force in the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966; but there is no such law in force in the territory comprised in Himachal Pradesh immediately prior to 1st November, 1966. With a view to bringing about uniformity and rationalising the tax structure throughout Himachal Pradesh and also to augmenting the Government revenue, it is necessary to enact the aforesaid law afresh for the whole of the Himachal Pradesh repealing the Punjab Act. This Bill seeks to achieve the objects.

SIMLA:
The 15th January, 1968.

SUKH RAM,
Development Minister.

FINANCIAL MEMORANDUM

This Bill is likely to yield an additional income of Rs. 20,000 per annum to the State. No additional expenditure will be involved.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 20 of the Bill empowers the Administrator (Lieutenant Governor) of the Union territory of Himachal Pradesh to make rules for carrying out the purposes of the Act.

RECOMMENDATIONS OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963.

The Administrator having been informed of the subject-matter of the Himachal Pradesh Entertainments Tax (Cinematograph Shows) Bill, 1968, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill.

Bill No. 6 of 1968.

**THE HIMACHAL PRADESH URBAN IMMOVABLE
PROPERTY TAX BILL, 1968**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the levy of a tax on urban immovable property in Himachal Pradesh.

Be it enacted by the Legislative Assembly of the Union territory of Himachal Pradesh in the Eighteenth Year of the Republic of India as follows:—

**Short title
and com-
mencement.**

1. (1) This Act may be called the Himachal Pradesh Urban Immovable Property Tax Act, 1968. 5

(2) It shall come into force in such areas and on such dates as the State Government may, by notification in the Official Gazette, direct.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "assessing authority" means the assessing authority constituted under this Act; 10

(b) "local authority" means a municipal committee, a cantonment board, a small town committee; a notified area committee or other authority legally entitled to, or entrusted by the State Government with the control or management of a municipal or local fund; 15

(c) "owner" includes a tenant in perpetuity, a mortgagee with possession, and a trustee having possession of trust property;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "rating area" means any area administered for the time being by a local authority which is included or which may hereafter be included in the Schedule to this Act; 20

(f) "the tax" means the tax (including the surcharge, if any) leviable under the provisions of section 3;

(g) "State Government" means the Administrator of the Union territory of Himachal Pradesh. 25

**Levy of
tax.**

3. (1) There shall be charged, levied and paid an annual tax on buildings and lands situated in the rating area shown in the Schedule to this Act at such rate, not exceeding twenty per centum of the annual value of such buildings and lands as the State Government may, by notification in the Official Gazette, direct in respect of each such rating areas: 30

Provided that where the tax calculated on the annual value exceeds the difference between the said annual value and the exemption limit, as referred to in clause (c) of sub-section (1), or as fixed by the State Government under sub-section (2), of section 4 of the Act, the tax leviable shall be equal to the said difference. 35

5 (2) The State Government may by similar notification direct that during the continuance of the state of war and for a period not exceeding twelve months after the termination thereof there shall be charged, leviable and paid, in addition to the tax leviable under sub-section (1), a surcharge not exceeding fifty per centum of the rate notified under that sub-section.

(3) The State Government may, by notification in the Official Gazette, from time to time add to, omit or vary any of the entries contained in the Schedule to this Act.

10 (4) The tax shall be paid by the owner of the buildings and lands in respect of which it has been levied and in the case of transfer of property whether by sale, gift, exchange, mortgage, inheritance or otherwise, the transferee of the said property shall be liable for the payment of any unpaid amount of tax outstanding on the date of transfer due in respect of the said property, but the transferee shall be liable only to the extent of
15 property acquired by him.

4. (1) The tax shall not be leviable in respect of the following properties, namely:— Exemption.

(a) buildings and lands vesting in the Central Government;

20 (b) buildings and lands vesting in the State Government or owned or administered by a local authority when used exclusively for public purposes and not used or intended to be used for purposes of profit;

25 (c) buildings and lands the annual value of which does not exceed *four hundred rupees* in the rating area of Simla and *three hundred rupees* in other areas:

30 Provided that if any such building or land is in the ownership of a person who owns any other building or land in the same rating area, the annual value of such building or land shall, for the purposes of this clause, be deemed to be the aggregate annual value of all buildings or lands owned by him in that area;

35 (d) buildings and lands or portions thereof used exclusively for educational purposes including colleges, schools, boarding houses; hostels and libraries if such buildings and lands or portions thereof are either owned by the educational institutions concerned or have been placed at the disposal of such educational institutions without payment of any rent;

40 (e) public parks and playgrounds which are open to the public, and buildings and lands attached thereto if the rent derived therefrom is exclusively spent for the maintenance of parks and playgrounds to which they are attached;

45 (f) buildings and lands or portions thereof used exclusively for public worship or public charity including mosques, temples, churches, dharamshalas, gurdwaras, hospitals, dispensaries, orphanages, alms houses, drinking water fountains, infirmaries for the treatment and care of animals and public burial or burning grounds or other places for the disposal of the dead:

50 Provided that the following buildings and lands or portions thereof shall not be deemed to be used exclusively for public worship or for public charity within the meaning of this section namely :—

(i) buildings in, or lands on which any trade or business is carried

on unless the rent derived from such buildings or lands is applied exclusively to religious purposes or such public charitable institutions as may be prescribed;

(ii) buildings or lands in respect of which rent is derived, and such rent is not applied exclusively to religious purposes or to such public charitable institutions as may be prescribed; and 5

(g) such buildings and lands used for the purpose of a factory as may be prescribed.

(2) The State Government may by notification in the Official Gazette, exempt in whole or in part, from the payment of the tax any person or class of persons or any property or description of property for such period as it may think fit, and may renew such exemption as often as it may consider to be necessary. 10

Ascertain-
ment of
annual
value.

5. The annual value of any land or building shall be ascertained by estimating the gross annual rent at which such land or building together with its appurtenances and any furniture that may be let for use or enjoyment with such building might reasonably be expected to let from year to year, less—

(a) any allowance not exceeding twenty per centum of the gross annual rent as the assessing authority in each particular case may consider reasonable rent for the furniture let with any such building; 15

(b) an allowance of fifteen per centum for the cost of repairs and for all other expenses necessary to maintain such building in a state to command such gross annual rent. Such deduction shall be calculated on the balance of the gross annual rent after the deduction if any, under clause (a); and 20

(c) any land revenue actually paid in respect of such building or land:

Provided that in calculating the annual value of any building or land under this section the value of any machinery in such building or on such land shall be excluded. 25

Assessing
authorities.

6. (1) There shall be an assessing authority for every rating area. 30

(2) Such assessing authorities shall exercise such powers and perform such duties as are conferred on them by this Act or the rules made thereunder.

Making and
operation
of valuation
list.

7. (1) A valuation list shall be made by the prescribed authority in accordance with the rules framed under this Act for every rating area so as to come into force either on the first day of April or the first day of October, and thereafter new valuation lists shall be made from time to time so that the interval between the dates on which one valuation list and the next succeeding valuation list respectively come into force shall be a period of five years: 35

Provided that the State Government may by order—

(a) extend or reduce by six months or one year the interval which would otherwise elapse between the coming into force of any two successive valuation lists for any rating area; and 40

(b) divide any rating area into parts for the purposes of a new valuation list and determine the years in which the next following valuation list for each of such parts respectively shall be made and come into force. 45

(2) Subject to the provisions of any such order as aforesaid, every valuation list shall come into force on the first day of April or the first day of

October, as the case may be, next following the date on which it is finally approved by the assessing authority and shall subject to the provisions of this Act and the rules made thereunder (including the provisions with respect to the alteration of and the making of additions to the valuation list) remain in force until it is superseded by a new valuation list.

8. (1) Where the assessing authority for any area has issued notices requiring returns in connection with the making of a new valuation list the said authority shall, as soon as may be after the expiration of the period allowed for the delivery of the returns, cause a draft valuation list to be prepared for the area and published in such manner as may be prescribed.

Draft valuation list.

(2) Any person aggrieved by any entry in the draft valuation list, or by the insertion therein or omission therefrom of any matter, or otherwise with respect to the list, may in accordance with the rules made under this Act, lodge an objection with the assessing authority at any time before the expiration of thirty days from the date on which the draft valuation list is published:

Provided that the assessing authority may entertain objections from an aggrieved person lodged within thirty days of receipt of the first demand notice if it is satisfied that the objector was prevented by sufficient cause to lodge them within the prescribed period.

9. Subject to such rules, if any, as the State Government may think fit to make in this behalf the assessing authority may at any time make such amendments in a valuation list as appear to it necessary in order to bring the list into accord with existing circumstances and in particular may—

Amendment of current valuation list.

(a) correct any clerical or arithmetical error in the list;

(b) correct any erroneous insertions or omissions or any misdescriptions;

(c) make such additions to or corrections in the list as appear to the authority to be necessary by reason of—

(i) a new building being erected after the completion of the valuation list;

(ii) a building included in the valuation list being destroyed or substantially damaged or altered since its value was last previously determined;

(iii) any change in the ownership of any building or land:

Provided that not less than fourteen days before making under the foregoing provisions any amendment in the valuation list for the time being in force other than the correction of a clerical or arithmetical error, or the correction of an erroneous insertion, omission or misdescription the assessing authority shall send notice of the proposed amendment to the owner of the building or land and shall also consider any objection thereto which may be made by him.

10. (1) Any person aggrieved by an order of the appropriate authority upon an objection made before that authority under section 8, 9 and 14 may appeal against such order, at any time before the expiration of thirty days from the date of such order to the Collector of the district where the building or land to which the objection related is situate or to such other officer as the State Government may, by notification in the Official Gazette, appoint in this behalf.

Appeal and revision.

(2) The Commissioner or such other officer as the State Government may, by notification in the Official Gazette, appoint in this behalf may of his own motion or on application made, call for the record of any proceeding or order of any authority for the purpose of satisfying himself as to the legality or propriety of such proceeding or order; and may pass such order in reference thereto as he may think fit:

Provided that no application under this sub-section shall be entertained unless it is made within a period of one hundred and eighty days of the taking of the proceedings or of the passing of the order as the case may be; and

(3) No appeal or application for revision made by any person under this section shall be entertained unless the authority competent to hear such appeal or revision is satisfied that the amount of tax assessed, and the penalty, if any, imposed, on such person has been paid by him:

Provided that if such authority is satisfied that such person is unable to pay the tax or the penalty or both, it may, for reasons to be recorded in writing, entertain the appeal or revision without the tax or the penalty or both having been paid.

Tax to be levied not notwithstanding appeal.

11. The tax shall be levied in accordance with the valuation list in force for the time being and shall be collected and be recoverable notwithstanding any appeal which may be pending with respect to that list.

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Collection of tax.

12. The tax shall be paid to such person or authority as the State Government may direct, and in such manner as may be prescribed.

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Recovery of tax from tenants.

13. Where the tax due from any person on account of any building or land is in arrear, it shall be lawful for the prescribed authority to serve upon any person paying rent in respect of that building or land, or any part thereof, to the person from whom the arrears are due, a notice stating the amount of such arrears of tax and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the prescribed authority until such arrears shall have been duly paid, and such notice shall operate to transfer to the prescribed authority the right to recover, receive and give a discharge for such rent.

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Penalty for default in payment.

14. (1) If any person on being served with such notice as may be prescribed fails to pay within the period specified in the notice any amount due from him on account of the tax, the prescribed authority may recover from him as penalty a sum not exceeding one-fourth of the amount of the tax so unpaid in addition to the amount of the tax payable by him.

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(2) No such penalty shall be imposed unless the prescribed authority is satisfied that the person liable to pay the tax has wilfully failed to pay the same.

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Recovery of dues as arrears of land revenue.

15. (1) Any sum lawfully due on account of the tax levied under section 3 or as a penalty imposed under this Act, which remains unpaid after the day on which it becomes due, shall be recoverable from the persons liable therefor as if it were an arrear of land revenue.

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(2) A question as to whether any tax or penalty is recoverable under this Act, the person from whom it is due, and the amount so recoverable, shall be determined by the prescribed authority.

(3) Subject to the decisions of any authority acting under section 10 of the Act, the order of the prescribed authority, both as to the amount of tax or the

penalty which is due, and as to the person from whom it is due, shall be considered as final and conclusive.

16. When the tax is collected by any local authority such local authority shall be entitled to such remuneration on account of the cost of collection as may be prescribed.

17. (1) In every case where a new valuation list is to be made for any rating area the assessing authority shall give public notice of such intention in such manner as may be prescribed and may serve a notice on the owner, occupier or lessee of any building or land in the said area, or on any one or more of them, requiring him, or them, to make return containing such particulars as may be prescribed.

(2) Every person on whom a notice to make a return is served in pursuance of the provisions of this section, shall, within thirty days of the date of the service of the notice, make a return in such form as is required by the notice, and deliver it in the manner so required to the assessing authority.

(3) If any person on whom such notice has been served fails within such period to submit such return, the assessing authority may proceed to value such property in such manner as it deems fit.

18. If the assessing authority at any time desires any person, who is the owner, lessee or occupier of any building or land wholly or partly within the rating area, to make a return with respect to any of the matters regarding which a return may be prescribed, it may serve a notice on that person requiring the return and that person shall within thirty days from the service of the notice send the required return to the assessing authority.

25. Provided that assessing authority may, in its discretion, extend the period for the delivery of any such return.

19. If any person on whom notice has been served under any of the provisions of sections 17 and 18, fails without reasonable excuse to comply with the notice, he shall, on conviction, be liable in respect of each offence to a fine not exceeding five hundred rupees and to a further penalty not exceeding twenty rupees for each day during which the default continues after conviction.

20. Any failure on the part of the assessing authority to complete any proceedings with respect to the preparation of a valuation list within the time required by this Act or the rules made thereunder or the omission from a valuation list of any matters required by the said Act or rules to be included therein, shall not of itself render the list invalid.

40. Every assessing authority, and every officer, working under the orders of such authority for the purposes of this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code 1860.

Remuneration of local authority.

Power of assessing authority to require returns.

Power of assessing authority to require returns at any time.

Penalty for failure to make returns.

Valuation list not to be rendered invalid by certain failures and omissions.

Assessing authorities, officers and servants to be deemed public servants.

Exclusion of jurisdiction of civil courts.

45. No civil court shall have jurisdiction in any matter which the State Government or an assessing authority or any officer or servant is empowered by this Act or the rules made thereunder to dispose of or take cognizance of the manner in which the State Government, or any assessing authority, officer or servant exercise any powers vested in it or him by or under this Act or the rules made thereunder.

Power to make rules.

23. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provisions such rules shall provide for any or all of the following matters, namely:—

- (a) the appointment, powers and duties of assessing authorities and other provisions with respect to such authorities;
- (b) the preparation and publication of valuation lists, including publication and inspection of draft valuation lists, notices of objections and hearing of objections, and other matters incidental thereto;
- (c) the practice and procedure to be followed on and in connection with appeals, including—
 - (i) notices of appeals;
 - (ii) prescription of scales of costs;
 - (iii) prescription of fees to be charged in connection with appeals;
- (d) the prescription of the form of any notice, valuation list, statement, return, or other document whatsoever which is required or authorised to be used under or for the purposes of this Act;
- (e) the mode of service of any notice, order or document required or authorised to be served;
- (f) the inspection and taking copies of and extracts from any draft valuation list, valuation list, notice of objection, proposal for amendment to the valuation list, notice of appeal, valuation made by valuer, and fees for such inspection or copies;
- (g) the appointment of valuers to advise or assist in connection with the valuation of buildings or lands and their powers and duties;
- (h) the time at and the manner in which the amount of tax shall be paid to the State Government;
- (i) the proportion of the tax to be refunded or remitted, and the manner in which and the conditions subject to which such refund or remission may be granted;
- (j) the prescription of fees to be charged in connection with any application made under this Act or the rules made thereunder;
- (k) any matter which is required by this Act to be prescribed;
- (l) such other matters as in the opinion of the State Government are required to be prescribed.

Repeal and savings.

24. The Punjab Urban Immovable Property Tax Act, 1940 as in force in the territories added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 is hereby repealed.

Notwithstanding such repeal, anything done or any action taken including any orders, notifications or rules made or issued in exercise of the powers conferred by or under the repealed Act shall, to the extent of being consistent with the provisions of this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act.

17 of 1940

21 of 1966

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SCHEDULE

(SECTION 3)

Rating areas

- | | |
|------------------------|------------------|
| 1. Simla | 17. New Bilaspur |
| 2. Kasumpti | 18. Solan |
| 3. Dharamsala | 19. Rampur |
| 4. Kangra | 20. Mandi |
| 5. Palampur | 21. Surnernagar |
| 6. Dalhousie | 22. Chamba |
| 7. Kulu | 23. Nahan |
| 8. Kasauli Cantonment | 24. Paonta Sahib |
| 9. Dagshai Cantonment | 25. Theog |
| 10. Subathu Cantonment | |
| 11. Nurpur | |
| 12. Una | |
| 13. Bakloh Cantonment | |
| 14. Jutog Cantonment | |
| 15. Hamirpur | |
| 16. Nalagarh | |

STATEMENT OF OBJECTS AND REASONS

The Punjab Urban Immovable Property Tax Act, 1940 which provides for the levy of tax on urban immovable property, is in force in the areas transferred to Himachal Pradesh under the provisions of section 5 of the Punjab Re-organisation Act, 1966, but there is no such law in force in the territory comprised in Himachal Pradesh immediately prior to 1st November, 1966. With a view to bringing about uniformity and rationalising the tax structure in the entire Himachal Pradesh and also to augmenting the Government revenues, it is necessary to enact the aforesaid law afresh for the whole of Himachal Pradesh repealing the Punjab Act. This Bill seeks to achieve the objects.

SIMLA:
The 15th January, 1968

SUKH RAM
Development Minister.

FINANCIAL MEMORANDUM

This Bill is likely to yield an additional income of about Rs. 2,00,000 per annum.

An expenditure of Rs. 14,000 is involved for surveying the rating areas once in five years, for the purposes of clause 7 of the Bill.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 23 of the Bill empowers the Administrator (Lieutenant Governor) of the Union territory of Himachal Pradesh to make rules for carrying out the purposes of the Act.

RECOMMENDATIONS OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

(Noting para 36 of the Excise and Taxation Department File No. 14-31/67 E&T).

The Administrator having been informed of the subject-matter of the Himachal Pradesh Urban Immovable Property Tax Bill, 1968, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill.